UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,566	03/06/2001	Robert Olan Keith JR.	ABREAU-00107	4072

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EXAMINER
NGUYEN, CAM LINH T

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/800,566	KEITH, ROBERT OLAN
	Examiner	Art Unit	
	CamLinh Nguyen	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 March 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32</u> is/are pending in the application.

    4a) Of the above claim(s) <u>8,16,24 and 30</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/8/06</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is response to amendment filed on 3/29/2006.

2.   Applicant's amendments to claims 1 – 32 are acknowledged. Consequently, rejections to

claims 1, 9, 17, 25, 31 and 32 under 35 U.S.C. 112, second paragraph, and rejection to claims 1 –

7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32 under double patenting are withdrawn. Currently, claims

1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32 are pending.

Terminal Disclaimer

3.   The terminal disclaimer filed on 3/29/2006 disclaiming the terminal portion of any patent

 granted on this application which would extend beyond the expiration date of Application

Numbers 09/800,607, 09/801,138, 09/801,072, 09/801,076, 09/800,592, 09/799,032 and

09/801,140 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Information Disclosure Statement

4.   The information disclosure statement (IDS) submitted on 5/8/2006 is in compliance with

the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being

considered by the examiner.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1 – 7, 9 – 15, 17 – 23, 25 – 29, and 31 - 32 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Wesinger Jr. et al (U.S. 5,778,367) in view of Anthony Stuart (U.S.

5,613,110).

◆ As per claims 1, 9, 17, 25, 31 – 32,

Wesinger teaches a method of accessing information in a searchable database comprising:

- "The searchable database is formatted in a directory tree structure" See col. 10, lines 61 –

    62 of Wesinger.

- "The directory tree structure includes nodes ... branches" See col. 10, lines 61 - 65. Each

    category corresponds to a node. All nodes are linked together.

- "Categorizing each item of data by a navigation path through the directory tree structure

    and by one or more parameters" see col. 4, lines 39 – 50, col. 6, lines 44 - 50 of

    Wesinger.

- " Each parameter is set with a corresponding value associated with the data item thereby

    forming a set parameter" see col. 10, lines 65 – col. 11, lines 4 of Wesinger.

- " An external application different than the research system accessing one or more

    nodes... and obtaining data from the one or more node by utilizing an application

    programming interface associated with the research system" See Fig. 1A, element 103.

    An "application programming interface" corresponding to the server 105.

- Users access the directory by a query. The query includes keywords that defined the

    navigation path. Users access the directory by a query (see col. 10, lines 65 – col. 11,

lines 4 of Wesinger. A user can specify the resource by selecting a category and set up

one or more set parameters); therefore the navigation path is defined by a query language

string.

- "Utilizing a research module including keyword search, hierarchical search, parametric

    search, and dichotomous key search, wherein accessing each of the nodes within the

    directory tree structure each of the search methodologies including keyword search,

    hierarchical search, parametric search, and dichotomous key search, are available of each

    search at any location within the searchable database" See Fig. 2H. In fig. 2H, Wesinger

    also allows the users choosing multiple search methods, including:

    - Keyword search

    - Hierarchical search corresponds to categories search.

    - Parametric search corresponds to Example search.

Wesinger clearly discloses a query language string which is a command string written according

to a query language (See col. 4, lines 8 – 11 of Wesinger).

The Wesinger reference fails to disclose the dichotomous key search. However, this

method search is a well known in the art. Stuart provides an example of it.

Stuart teaches that a dichotomous key search is used to search for data in the database

(See Abstract).

It would have been obvious to one with ordinary skill in the art at the time the invention

was made to apply the teaching of Stuart into the invention of Wesinger because Wesinger

suggested that multiple search method are available for user and the combination would reduce

the memory access when using binary search, and providing user more search methodologies.

♦ As per claims 2, 10, 18, 26, the combination of Wesinger and Stuart disclose:

- " The applications programming interface accesses the one or more nodes... using a query string defining a navigation path" Wesinger clearly discloses a query language string which is a command string written according to a query language (See col. 4, lines 8 – 11 of Wesinger).

♦ As per claims 3, 11, 19, 27, the combination of Wesinger and Stuart disclose:

- "Links to other nodes within the directory tree structure, links to web sites external to the electronic system" See col. 4, lines 39 – 50, col. 6, lines 44 - 50 of Wesinger.

♦ As per claims 4, 12, 20, 28, the combination of Wesinger and Stuart disclose:

- "The searchable database is distributed into more than one physical location" See Fig. 1A, wherein more than one databases are presented.

♦ As per claims 5 - 7, 13 – 15, 21 – 23, 29, the combination of Wesinger and Stuart disclose:

- "Accessing one or more nodes is performed by a server" See Fig. 2K, col. 5, lines 53 – 55 of Wesinger.

- "Establishing an Internet connection with the server" See Fig. 1A- 1B of Wesinger.

Response to Arguments

7.   Applicant's arguments filed 3/29/2006 have been fully considered but they are not persuasive.

♦ Applicant argues that Wesinger does not teach that each utilization of the search module includes the availability of all types of available searches at any location within the database (page 10 of the Remark). The Examiner respectfully disagrees.

Referring to Fig. 2H, col. 5, lines 30 – 40, Wesinger teaches that the system allows the user move quickly within the WebBook by selecting different search options including go to the main page. The main page includes different search options. Therefore, at any location within the searchable database, the user can go back to the search option page and selects another option. Clearly, all the search options are always available to the user. The Applicant did not clearly claims that the search options are available without any user input or changing page. Wesinger teaches that the search options are available by clicking on the main menu. Therefore, the Wesinger still can be applied to the instant claims.

♦ Applicant argues that the binary search in Stuart is not a dichotomous key search as taught and claimed in the present invention (page 10 of the Remark). The Examiner respectfully disagrees.

According to the specification, Applicant defined that "A dichotomous key structure is a binary key structure". Stuart teaches that it is well known in the art, the binary search techniques, i.e., a dichotomizing search in which at each step of the search the set of data elements being searched is divided by two (col. 3, lines 24 – 27, Stuart). In col. 9, lines 54 – 55, Stuart used this method when using the two binary searches. Therefore, the Stuart reference teaches the same teaching as claimed in the instant claims.

♦ Applicant argues that Stuart does not teach that each utilization of the search module includes the availability of all types of available searches at any location within the database (page 11 of the Remark). The Examiner respectfully disagrees.

The Examiner did not use this reference for this teaching.

♦ Applicant argues that there is no motivation to warrant the combination of Wesinger and

Stuart, there is no hint, teaching or suggestion in either Wesinger or Stuart to warrant their

combination (page 11 of the Remark). The Examiner respectfully disagrees.

In response to applicant's argument that there is no suggestion to combine the references,

the examiner recognizes that obviousness can only be established by combining or modifying the

teachings of the prior art to produce the claimed invention where there is some teaching,

suggestion, or motivation to do so found either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d

1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

♦ Applicant argues that the burden of establishing a prima facie case of obviousness based on the

teachings of Wesinger and Stuart has not been met within the Office Action (page 12 of the

Remark). The Examiner respectfully disagrees.

In response to applicant's argument on page 12, *a prima facie case of obviousness* is

established when the teachings from the prior art itself would appear to have suggested the

claimed subject matter to a person of ordinary skill in the art. Once such a case is established, it

is incumbent upon appellant to go forward with objective evidence of unobviousness. In re

Fielder, 471 F.2d 640, 176 USPQ 300 (CCPA 1973).

Examiner is entitled to give claim limitations their broadest reasonable interpretation in

light of the specification.

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable

interpretation consistent with the specification.' Applicant always has the opportunity to amend

the claims during prosecussion and broad interpretation by the examiner reduces the possibility

that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162

USPQ 541,550-51 (CCPA 1969).

♦ Applicant argues that the combination of Wesinger and Stuart does not teach that each

utilization of the search module includes the availability of all types of available searches at any

location within the database (page 12 of the Remark). The Examiner respectfully disagrees.

As discussed above, the Wesinger reference does disclose this limitation.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024.

The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeffrey Gaffin can be reached on (571) 272 - 4023. The fax phone number for the

organization where this application or proceeding is assigned is 571 – 273 - 8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen, Cam-Linh

Art Unit 2161

FRANTZ COBY
PRIMARY EXAMINER